

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	CC Docket No. 96-45
Federal-State Joint Board	)	
On Universal Service	)	

**Comments of Beacon Telecommunications Advisors, LLC**

Beacon Telecommunications Advisors, LLC (Beacon) submits these comments in response to the Commission’s Further Notice of Proposed Rulemaking (FNPRM) And Report and Order in the above-captioned proceeding related to FCC 02-43.

Beacon is a regulatory, financial, and management consulting firm providing services to rural local exchange carriers (LECs) throughout the United States. Beacon’s clients are directly impacted by decisions related to the issues presented in this proceeding.

**Summary of Opinion**

Beacon believes assessing Universal Service Contributions (USCs) based on the number and capacity of connections is contrary to the plain language in the Act and is not in the public interest. In addition, the arguments presented below support Beacon’s position that assessing USCs based on the number and capacity of connections is inequitable and discriminatory.

**Plain Reading of the Act**

Section 254(7)(d) states that “Every telecommunications carrier that provides telecommunications services shall contribute, on an equitable and nondiscriminatory basis, to the specific, predictable, and sufficient mechanisms established by the Commission to preserve and advance universal service.” A plain reading would indicate

that every telecommunications carrier should contribute as opposed to other plans that appear to try and get around this requirement. The logic employed to do this seems to be that since the customers of every telecommunications carrier are end users, “let’s assess a single charge to each end user.” The only way that this works is to assume that all telecommunications carriers would have assessed their portion directly on the end user in exactly the same way. The downfall to this method is that it essentially forecloses any innovation that might be developed in a competitive market, thereby forcing carriers who would not otherwise do so to assess these contributions.

### **Creation of Negative Perception**

In this FNPRM, numerous allusions are made to having only one provider responsible for contributing based on connections provided, which may help make the recovery process more understandable for customers.<sup>1</sup> Beacon believes that the public interest serves not only to be met by concrete measures (such as competitive pricing, for example), but also by perception of the general public. In this regard, the general public may not be as inclined to purchase services or be as loyal, especially in small and rural communities where “stick-togetherness” is an enormous benefit to those communities, should rate of return carriers be required to assess the majority of USCs on a connection basis. The reason for this is that some customers see additional surcharges on their bill and, while not understanding the reason for assessing these surcharges, mistakenly attribute this surcharge to “padding the pocket” of the local telephone company. When this situation occurs, customers are less likely to purchase additional services from the LEC than they otherwise would have been due to a misperception, leading to 1) lower revenue generated by the LEC, 2) less dollars available to enhance networks, and 3) ultimately contradicting the Act by not preserving and advancing universal service. For this reason, Beacon believes the assessment of USCs on a connection basis is against the public interest.

### **Discriminatory**

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<sup>1</sup> *FCC 02-43, CC Docket No. 96-45, para. 's 15, 17, 20,*

In concurrence with the Act, Beacon believes that carriers should contribute to universal service on an equitable and nondiscriminatory basis.<sup>2</sup> Since assessing USCs based on the number and capacity of connections would generally fall onto the responsibility of Incumbent LECs (ILECs), Beacon rejects a connection-based proposal as fair and equitable, and therefore discriminatory, since the Act statutorily requires “every telecommunications carrier that provides interstate telecommunications service” to contribute.<sup>3</sup> In addition, contributors are currently not required to recover their contributions from their end users.<sup>4</sup> Adopting methodology to assess USCs on a connection basis will burden those carriers who have in good faith chosen not to currently assess these contributions by in fact presenting them with an ultimatum. To this end, they can either levy this surcharge to their end users, or face the risk of losing substantial monies that could be used for the preservation and advancement of universal service.

Lastly, discrimination can come in a variety of forms. Multi-line business connections will not be assessed using the same connection-based methodology as other network components. Instead, these connections will be based on the maximum amount of capacity available, and not the capacity used.<sup>5</sup> Is this not discriminatory in and of itself? Why should multi-line business connections be based on capacity available instead of capacity used, such as is the case with the other connections? Furthermore, multi-line business connections “would be calculated to recover the remaining universal service funding needs, based on the capacity of the connections provided”.<sup>6</sup> Again, multi-line businesses are targeted to make up any residual or deficit in universal service funding requirements. In essence, this creates a disincentive for multi-line businesses to attain faster and more efficient services for their businesses, and instead inhibits them to “settle” on their current service. Allowing these disincentives to occur in fact creates a mode of discrimination for these customers.

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<sup>2</sup> *Section 254(d) of the Telecommunications Act of 1996*

<sup>3</sup> *ibid*

<sup>4</sup> *Universal Service Order, 12 FCC Rcd at 9211-12 para. 855*

<sup>5</sup> *FCC 02-43, CC Docket No. 96-45, footnote 80*

<sup>6</sup> *ibid, para. 16*

### **Declining Contribution Base**

Beacon disagrees with the notion that the contribution base will erode over time. In this FNPRM, it is stated that competition in the interexchange market continues to increase.<sup>7</sup> As this happens, more entrants into this market will generate more competitive pricing, which will in turn increase stimulation of toll calling in the interstate jurisdiction. Ultimately, interstate telecommunications revenues will in fact be spread to other carriers instead of declining nationwide. Therefore, interexchange carriers (IXCs) that are seeing a decline in their interstate revenues will basically be required to contribute less to the universal service funding requirements while other IXCs entering the market will be required to contribute more. In this respect, the contribution base will not erode, but instead be allocated to more entrants and “players”.

Such conclusions of declining interstate interexchange revenue seemed especially premature based on all of the claims of increased competition as a result of the entry of the RBOCs into in-region long distance after meeting the requirements of Section 271. In-region long distance would include interstate long distance. While there would likely be a reallocation of existing minutes and revenues between the existing and newly freed interexchange carriers, it also seems reasonable that new minutes and revenues would be generated as a result of increased competition. In summary, it seems premature to decide that interstate interexchange minutes and revenues will decrease just when there appears to be large, new entrants ready to compete and offer new services.

### **Conclusion**

Based on the comments contained herein, Beacon feels that the plain language of the Act continues to require every telecommunications carrier to contribute to USC's. Beacon disagrees that universal service contributions should be assessed based on the number and capacity of connections to the public network. Furthermore, it does not make sense how anyone can proclaim that interstate interexchange minutes, and therefore revenues, will decline in the future just as there appears to be new and formidable competition in that

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<sup>7</sup> *ibid*, para. 9

jurisdiction from “soon-to-be-released” RBOCs. If the FCC feels that it must do something, Beacon instead proposes to remain status quo for small and rural LECs since the current system has a proven track record of working for these companies. Should the FCC adopt other methodologies for replacement of the current assessment mechanism, Beacon believes those methodologies should not disproportionately burden those carriers that have the most direct relationship to the end user, e.g., LECs, especially when the Act clearly states that every telecommunications carrier shall contribute equitably.

Respectfully submitted,

**Beacon Telecommunications Advisors, LLC**

[Filed Electronically]

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